

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

Michael Vaughn

Plaintiff,

vs.

1:08-cv-298 (FJS/RFT)

Michael Weinig, Inc.

**Defendant/Third- Party
Plaintiff,**

vs.

Terminal Millwork, Inc.

Third-Party Defendant.

ORDER DISMISSING CASE

On November 4, 2009 this Court issued an order adopting Magistrate Judge Treece's September 28, 2009 Report and Recommendation Order, recommending that this Court place this matter on it's Rule 41(b) Dismissal Calendar for failure to prosecute for the reasons stated therein.

Accordingly, the case was placed on a Dismissal Calendar call to be held November 23, 2009 at 3:30 p.m. An appearance was not mandatory but the Court did order Plaintiff to file any opposition to the dismissal by November 13, 2009. No opposition papers were filed.

On November 23, 2009 a Dismissal Calendar call was held at 3:30 p.m. No parties to this action appeared.

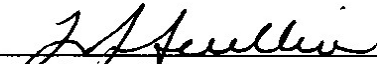
Therefore, it is hereby

ORDERED that this case is dismissed and further it is

ORDERED that the Clerk of the Court shall close this case.

IT IS SO ORDERED.

November 24, 2009



Frederick J. Scullin, Jr.
Senior United States District Court Judge